

# SUPREME COURT OF THE STATE OF NEW YORK NEW YORK COUNTY

Hon. Paul A. Goetz, JSC

47

PRESENT: \_\_\_\_\_  
Justice

PART \_\_\_\_\_

Vullo, MARIA T.

453158-17

INDEX NO. \_\_\_\_\_

MOTION DATE \_\_\_\_\_

MOTION SEQ. NO. 1

-v-  
GUARANTEE Tee Ins. Co.

The following papers, numbered 1 to \_\_\_\_\_, were read on this motion to/for \_\_\_\_\_

Notice of Motion/Order to Show Cause — Affidavits — Exhibits \_\_\_\_\_ | No(s). 1

Answering Affidavits — Exhibits \_\_\_\_\_ | No(s). \_\_\_\_\_


Replying Affidavits \_\_\_\_\_ | No(s). \_\_\_\_\_

Upon the foregoing papers, it is ordered that this motion is

*OSC granted  
order of Auxiliary receivership  
signed.*

MOTION/CASE IS RESPECTFULLY REFERRED TO JUSTICE  
FOR THE FOLLOWING REASON(S):

Dated: 1/26/18

  
\_\_\_\_\_, J.S.C.  
Hon. Paul A. Goetz, JSC

- 1. CHECK ONE: .....  CASE DISPOSED  NON-FINAL DISPOSITION
- 2. CHECK AS APPROPRIATE: ..... MOTION IS:  GRANTED  DENIED  GRANTED IN PART  OTHER
- 3. CHECK IF APPROPRIATE: .....  SETTLE ORDER  SUBMIT ORDER
- DO NOT POST  FIDUCIARY APPOINTMENT  REFERENCE

At IAS Part 47 of the Supreme Court of the State of New York, County of New York, at the Courthouse, 80 Centre Street in the County, City and State of New York, on the 26 day of JANUARY 2018.

P R E S E N T :

HON. PAUL A. GOETZ, J.S.C.

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
In the Matter of

Index No.: 453158/2017

the Application of

Maria T. Vullo, Superintendent of Financial Services of the State of New York, for an Order of Appointment as Ancillary Receiver of

**ORDER OF  
ANCILLARY  
RECEIVERSHIP**

GUARANTEE INSURANCE COMPANY.  
-----X

Maria T. Vullo, Superintendent of Financial Services of the State of New York (“Superintendent”), having moved this Court for an order appointing the Superintendent and her successors in office as ancillary receiver (“Ancillary Receiver”) of Guarantee Insurance Company (“Guarantee”), and upon reading and filing the petition of the Superintendent, duly verified on the 5<sup>th</sup> day of December, 2017 (“Verified Petition”), the Affidavit of Joan L. Riddell, Deputy Chief Insurance Examiner, Property Bureau, New York State Department of Financial Services, sworn to on the 5<sup>th</sup> day of December, 2017, and the exhibits annexed thereto, this Court finds that:

1. Guarantee is a property/casualty insurer organized under the laws of the State of Florida, with its main administrative office located in Fort Lauderdale, Florida;

2. Guarantee was licensed in the State of New York to transact the kinds of insurance specified in New York Insurance Law §§ 1113(a)(3) – (17), and (19) – (21);

3. By order dated November 27, 2017, the Circuit Court of the Second Judicial Circuit, In and For Leon County, Florida issued a Consent Order Appointing the Florida Department of Financial Services as Receiver of Guarantee for Purposes of Liquidation, Injunction and Notice of Automatic Stay and found Guarantee to be insolvent (the “Liquidation Order”). The Liquidation Order appointed Jimmy Patronis, Chief Financial Officer of the Florida State Department of Financial Services as receiver as (“Florida Receiver”) of Guarantee. The Liquidation Order also, among other things, established the date that is six months from the date of the Liquidation Order, which is May 27, 2018, as the bar date for the filing of claims against Guarantee (the “Claims Bar Date”);

4. Guarantee is subject to Article 74 of the New York Insurance Law (“Insurance Law”);

5. Florida is a reciprocal state within the meaning of Insurance Law § 7408(b)(6);

6. The Florida Receiver requested that the Superintendent commence an ancillary receivership proceeding for Guarantee; and

7. Insurance Law § 7410(a) mandates that the Superintendent be appointed Ancillary Receiver of Guarantee.

NOW, on the motion of the Honorable Eric T. Schneiderman, Attorney General of the State of New York, it is hereby

ORDERED as follows:

1. The relief requested in the Verified Petition seeking an order of ancillary receivership (“Order”) is granted in its entirety;

2. The Superintendent and her successors in office are appointed Ancillary Receiver of Guarantee and are vested with all rights and obligations granted to and imposed upon her pursuant to Article 74 of the Insurance Law;
3. The material provisions of the Liquidation Order as it pertains to this ancillary receivership proceeding, including injunctions, restrictions and directions set forth in paragraphs 41, 42 and 43 of the Liquidation Order apply to this ancillary receivership proceeding;
4. In accordance with Insurance Law § 7412(a), the Claims Bar Date of May 27, 2018, established in paragraph 31 of the Liquidation Order, applies to this ancillary receivership proceeding and all New York claims under Guarantee policies and evidence supporting such claims must be submitted to the Ancillary Receiver by May 27, 2018, and if not submitted by that date shall be barred;
5. All persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against Guarantee, and all persons are permanently enjoined and restrained from commencing or prosecuting any actions, lawsuits or proceedings in the State of New York against Guarantee, the Superintendent as Ancillary Receiver or as administrator of the New York security funds, the New York Liquidation Bureau, and their employees, attorneys, or agents, with respect to this proceeding or in the discharge of their duties;
6. All parties to actions, lawsuits, and special or other proceedings against insureds of Guarantee or in which Guarantee is obligated to defend an insured or provide a defense to a party pursuant to an insurance policy are enjoined and restrained from obtaining any judgment or proceeding with any discovery, court proceedings or other litigation tasks or procedures, including, but not limited to, conferences, trials, applications for judgment or proceedings on settlement or judgment, for a period of 180 days from the date of entry of this Order;
7. All persons who have first party policyholder loss claims against Guarantee in the State of New York are enjoined and restrained from presenting and filing claims with the Ancillary Receiver for a period of 90 days from the date of entry of this Order;
8. Judicial immunity is extended to the Superintendent in her capacities as Ancillary Receiver of Guarantee and as administrator of the New York security funds, her successors in office, the New York Liquidation Bureau, and their agents and employees, for any cause of action of any nature against them, individually or jointly, for any act or omission when acting in good faith, in accordance with the orders of this Court, or in the performance of their duties pursuant to Insurance Law Articles 74 and 76;
9. The Ancillary Receiver shall serve a copy of this Order on the Florida Receiver, to Jimmy Patronis, Chief Financial Officer, Florida State Department of Financial


Services, Division of Rehabilitation and Liquidation, Alexander Building, 2020 Capital Circle SE, Suite 310, Tallahassee, Florida 32301, by overnight mail;

- 10. The Ancillary Receiver shall provide notice of this Order, substantially in the form attached hereto (the "Notice"), to all creditors, claimants, and interested persons located in the State of New York by: (i) publication of the Notice in *The New York Post*, or a publication of similar circulation, within 30 days of entry of this Order; and (ii) posting the Notice and the Order on the Internet web page maintained by the New York Liquidation Bureau at <http://www.nylb.org> within 15 days after the entry of this Order;
- 11. Guarantee's license to do business in the State of New York is hereby revoked;
- 12. The caption for this proceeding is hereby amended as follows:

SUPREME COURT OF THE STATE OF NEW YORK  
 COUNTY OF NEW YORK  
 -----X  
 In the matter of  
  
 the Ancillary Receivership of  
  
 GUARANTEE INSURANCE COMPANY.  
 -----X

- 13. All further papers in this proceeding shall bear the above amended caption.

E N T E R

  
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 J.S.C.  
 Hon. Paul A. Goetz, JSC